

NSG-202US

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appln. No: 09/937,185  
Applicant: Shunsuke Ohtsuka et al.  
Filed: September 21, 2001  
Title: LIGHT-EMITTING THYRISTOR MATRIX ARRAY  
TC/A.U.: 2811  
Examiner: Sara W. Crane  
Confirmation No.: 6364  
Docket No.: NSG-202US

**COMMUNICATION**

Mail Stop 16  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Attention: Refund Section, Accounting Division, Office of Finance**

SIR:

On December 17, 2003 a Request for Refund was filed with the U.S. Patent and Trademark Office (USPTO) requesting a refund with respect to the Notice of Appeal Fee and Petition for Extension of Time Fee paid on December 17, 2003 for the above-identified application. To date a refund to Deposit Account No. 18-0350 has not been received in connection with this request.

Enclosed is a copy of the Request for Refund as filed on December 17, 2003 and a copy of the Decision on Petition dated March 9, 2004 and received from the USPTO on March 12, 2004, granting the request to refund the Extension of Time Fee.

NSG-202US

PATENT

Therefore, Applicant requests the refund for the Extension of Time Fee be immediately credited to Deposit Account No. 18-0350. 950,00

Respectfully Submitted,

  
Kenneth N. Nigon, Reg. No. 31,549  
Attorney(s) for Applicant

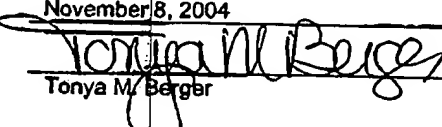
Dated: November 8, 2004

Suite 301  
One Westlakes, Berwyn  
P.O. Box 980  
Valley Forge, PA 19482-0980  
(610) 407-0700

The Assistant Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

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November 8, 2004

  
Tonya M. Berger

## Schedule A

Our Reference	Client Reference Title	Status Inventors/Applicants	Filed Serial No.	Issue Patent No.
✓ 05110-002001 (Calendar)	METHOD FOR MAPPING, TRANSLATING, AND DYNAMICALLY RECONCILING DATA BETWEEN DISPARATE COMPUTER PLATFORMS	ISSUED  Keith Crozier	4/10/1992 07/867,167	2/21/1995 5,392,390
✓ 05110-002002 (Database Translation)	METHOD FOR MAPPING, TRANSLATING, AND DYNAMICALLY RECONCILING DATA BETWEEN DISPARATE COMPUTER PLATFORMS	ISSUED  Keith Crozier	4/7/1994 08/224,329	12/23/1997 5,701,423
✓ 05110-002003 (Reconciliation)	METHOD FOR MAPPING, TRANSLATING, AND DYNAMICALLY RECONCILING DATA BETWEEN DISPARATE COMPUTER PLATFORMS	ISSUED  Keith Crozier	7/22/1994 08/279,201	9/9/1997 5,666,553
✓ 05110-002005 (Database Translation Cont.)	METHOD FOR MAPPING, TRANSLATING, AND DYNAMICALLY RECONCILING DATA BETWEEN DISPARATE COMPUTER PLATFORMS	ALLOWED  Keith Crozier	8/25/1998 09/139,782	

10,482,852

Appl. No. 09/937,185

NSG-202US

☒ Extension of term3<sup>rd</sup> month\$950.00☐ Excess claims☐ Issue fee☐ Petition fee☐ Patent maintenance fee

maintenance fee

☐ Patent maintenance fee surcharge☒ Other Notice of Appeal\$330.00

TOTAL REFUND REQUESTED

\$1,280.00**III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR**

An Amendment After Final Action was filed with the U.S. Patent and Trademark Office on August 6, 2003 in response to the Final Office Action dated June 17, 2003. A copy of the documents as filed on August 6, 2003 along with the date stamped Return Receipt Postcard are attached to the enclosed Petition to Enter an Amendment After Final Rejection as the Date the Amendment was Received at the USPTO.

Applicants request a refund of the 3 month extension fee and the fee for the Notice of Appeal which were filed to correct the error of the USPTO when they lost Applicant's Amendment After Final Action after it had been received at the USPTO on August 8, 2003.

COPY

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**FAX FILING IN U.S. PATENT & TRADEMARK OFFICE**DATE: November 8, 2004

TIME: \_\_\_\_\_

TO:	Refund Section	FAX NO.:	1-703-308-5077
FROM:	Kenneth N. Nigon	ADMIN. ASST.:	Tonya M. Berger
APPLN. NO.:	09/937,185	ATTY. DOCKET NO.:	NSG-202US
TITLE OF APPLN.: LIGHT-EMITTING THYRISTOR MATRIX ARRAY			
FILING DATE:	September 21, 2001	ART UNIT:	2811
FIRST INVENTOR:	Shunsuke Ohtsuka, et al.	CONF. NO.:	6364
TITLE OF DOCUMENT (and List of Attachments): Transmittal, Communication, Copy of Request for Refund filed December 17, 2003 and Copy of Decision on Petition dated March 9, 2004			

Total Number of Pages: 11 (including this form)

COMMENTS

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PTO/SB/21 (09-04) (AW 10/2004)

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)


Total Number of Pages in This Submission 10

Application Number	09/937,185
Filing Date	September 21, 2001
First Named Inventor	Shunsuke Ohtsuka et al.
Art Unit	2811
Examiner Name	Sara W. Crance
Attorney Docket No.	NSG-202US

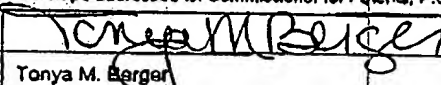
## ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Communication, Copy of Request for Refund filed December 17, 2003 and Copy of Decision on Petition dated March 9, 2004
Remarks:		

## SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm Name	RatnerPrestita		
Signature			
Printed Name	Kenneth N. Nigon		
Date	November 8, 2004	Registration No.	31,549

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Signature			
Typed or Printed Name	Tonya M. Berger	Date	November 8, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, ALEXANDRIA, VA 22313-1450.

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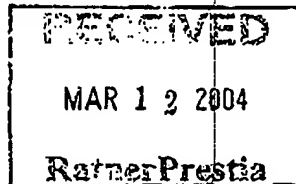
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Appeal brief (2mo)  
5/9/04 / Jod

In re Application of:  
Shunsuke Ohtsuda et al.  
Serial No.: 09/937,185  
Filed: September 21, 2001  
Attorney Docket No. NSG-202US

DECISION ON PETITION

This is a decision on the petition, filed February 9, 2004, via facsimile transmission, requesting that the Amendment After Final Rejection be entered under 37 C.F.R. § 1.181 or § 1.182. The petition is being treated as a petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the above-identified application, to enter the Amendment After Final Action, to reset the statutory period for filing a reply to the final Office action to run from the mail date of any Advisory Action to be issued and to refund the fee for the three-month extension of time filed with the Notice of Appeal on December 17, 2003.

70. The petition ~~to~~ to withdraw the holding of abandonment is granted.  
The petition to reset the period for reply to the final Office action is denied.  
The request to refund the extension of time fee is granted.

This application was held abandoned for failure to timely file a response within the meaning of 37 C.F.R. § 1.113 to the final Office action of June 17, 2003. A Notice of Abandonment was mailed on January 27, 2004.

Petitioner asserts that a reply, consisting of an "Amendment After Final Action" was timely filed on August 6, 2003, but has not been considered by the USPTO. As such, petitioner requests that, due to the delay on the part of the USPTO, this amendment should be entered and that, if any Advisory Action is issued in response thereto, the shortened statutory period for reply be reset to run from the mailing date of such Advisory Action. It is further asserted that the delay in considering the Amendment After Final Action has caused the petitioner to have to pay the fee for an extension of time of three months to file the Notice of Appeal on December 22, 2003.

A review of the file record indicates that the above-identified Amendment After Final Action was timely submitted but was not matched with the file for consideration by the examiner. In

Application Serial No. 09/937,185  
Decision On Petition

Page 2

the apparent absence of an Office communication regarding the status of the Amendment After Final Action, a Notice of Appeal and a petition for an extension of time of three months were filed via a certificate of mailing under 37 CFR 1.8(a) with a deposit date of December 17, 2003, and were received in the USPTO on December 22, 2003.

STATUTE, REGULATIONS AND PRACTICE

COPY

37 C.F.R. § 1.113(a) states in part that:

(a) On the second or any subsequent examination or consideration the rejection or other action may be made final, whereupon applicant's or patent owner's response is limited to appeal in the case of rejection of any claim (§ 1.191) or to amendment as specified in § 1.116...

37 C.F.R. § 1.116(a) and (b) state that:

(a) After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or save the application from abandonment under § 1.135.

(b) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon showing of good and sufficient reasons why they are necessary and were not earlier presented.

M.P.E.P. § 706.07(f) states in part that:

All final rejections setting a three (3) month shortened statutory period (SSP) for response should contain one of the Form Paragraphs (7.39; 7.40; 7.41) advising applicant that if the response is filed within two (2) months of the date of the final Office action, the shortened statutory period will expire at three (3) months from the date of the final rejection or on the date the advisory action is mailed, whichever is later. Thus, a variable response period will be established. In no event can the statutory period for response expire later than 6 months from the date of the final rejection.

...  
Advisory Actions

(4) Where the final Office action sets a variable response period as set forth in paragraph 1 above, AND applicant files a complete first response to the final Office action within 2 months of the date of the final Office action, the examiner must determine if the

...



Application Serial No. 09/937,185  
Decision On Petition

**COPY** Page 3

(c) Response does not put the application in condition for allowance - then the advisory action should inform applicant that the SSP for response expires 3 months from the date of the final rejection or as of the mailing date of the advisory action, whichever is later, by checking the appropriate box at the top portion of the Advisory Action form, PTOL - 303.

...

For example, if applicant initially responds within 2 months from the date of mailing of a final rejection and the examiner mails an advisory action before the end of 3 months from the date of mailing of the final rejection, the shortened statutory period will expire at the end of 3 months from the date of mailing of the final rejection. In such a case, any extension fee would then be calculated from the end of the 3 - month period. If the examiner, however, does not mail an advisory action until after the end of 3 months, the shortened statutory period will expire on the date the examiner mails the advisory action and any extension fee may be calculated from that date.

#### OPINION

In view of the copies of the postcard receipts evidencing the timely filing of the Amendment After Final Action on August 8, 2003 and of the Notice of Appeal on December 22, 2003, the copies of the Amendment and of the Notice of Appeal are hereby accepted since the USPTO has apparently lost the originally submitted papers.

#### Refund of the extension of time fee for filing the Notice of Appeal:

Pursuant to the USPTO policy on practice after final action as outlined in M.P.E.P. § 706.07(f), when a reply to a final Office action setting a three-month shortened statutory period for response is filed within two months of the date of the action, a variable response period will be established: the statutory period will expire at three months from the date of the final action or on the date the advisory action is mailed, whichever is later, but no later than six months from the date of the final action. The Amendment After Final Action submitted on August 6, 2003 was filed within two months from the date of the final action. Accordingly, a variable statutory period was established pursuant to M.P.E.P. § 706.07(f). In the instant application, the proposed after final amendment pursuant to 37 C.F.R. § 1.116 does not place the application in condition for allowance as indicated in the attached Advisory Action, the variable statutory period was extended to six months from the date of the final action and expired December 17, 2003. As such, the filing of the Notice of Appeal on December 22, 2003 via a certificate of mailing dated December 17, 2003 did not require an extension of time to be considered timely. The request for refund the fee for three-month extension of time filed December 22, 2003 is granted.

#### Resetting the statutory period in an Advisory Action:

Under current practice after an Office action is made final, it is incumbent upon an applicant to take appropriate steps to ensure against the abandonment of his/her application. Because the Amendment After Final Action submitted is not deemed to place the application in condition for allowance, the reply required may be a Notice of Appeal and requisite fee. While it is regrettable that the USPTO did not timely consider the After Final Amendment and an Advisory Action not mailed before the expiration of the statutory period, there is no provision in the statute or rule that permits resetting a statutory period in an Advisory Action. Accordingly, the petition to reset the time period for filing a reply to the final Office action cannot be granted.

Application Serial No. 09/937,185  
Decision On Petition

Page 4

COPY

Withdrawing the holding of Abandonment:

In view of the timely filing of the Notice of Appeal, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated. The application is restore to the status of pending and under appeal. The appeal brief is due.

Time for filing an appeal brief:

Because the application was held abandoned while on appeal and because of the special circumstances surrounding this application, the two-month time to file the appeal brief pursuant to 37 C.F.R. § 1.192 is hereby reset to run from the date of this decision. Extensions of this time are governed by 37 C.F.R. § 1.136(a).

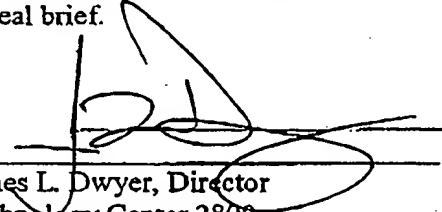
CONCLUSION

The holding of abandonment is withdrawn and the Notice of Abandonment vacated. The extension of time fee of \$950.00 will be refunded to Deposit Account No. 18-0350 and the two-month time for filing the appeal brief is reset to run from the date of this decision with extensions of time available under 37 CFR 1.136(a).

A copy of the Advisory Action is enclosed for petitioner's file record.

Questions regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

The application file is being forwarded to the Technology Central Files where it awaits the appeal brief.

  
James L. Dwyer, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components

Enclosure: Copy of the Advisory Action in response to the Amendment After Final Action

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<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b>		Docket Number (Optional) NSG-202US
In re Application of Shunsuke Ohtsuka et al.		
Application Number 09/937,185		Filed September 21, 2001
For LIGHT-EMITTING THYRISTOR MATRIX ARRAY		
Art Unit 2811	Examiner Sara W. Crane	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

☐ One month (37 CFR 1.17(a)(1)) \$ \_\_\_\_\_

☐ Two months (37 CFR 1.17(a)(2)) \$ \_\_\_\_\_

☒ Three months (37 CFR 1.17(a)(3)) \$950.00

☐ Four months (37 CFR 1.17(a)(4)) \$ \_\_\_\_\_

☐ Five months (37 CFR 1.17(a)(5)) \$ \_\_\_\_\_

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ \_\_\_\_\_.

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account Number 18-0350. I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number: 31,549

☐ attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a)

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December 17, 2003  
Date

*[Signature]*  
Signature

(610)407-0700  
Telephone Number

Kenneth N. Nigon, Reg. No. 31,549  
Typed or Printed Name

---

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Name (Print/Type) Tonya M. Berger

Signature *[Signature]* Date December 17, 2003

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ \*Total of \_\_\_\_\_ forms are submitted.

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Adjustment date: 01/21/2005 SDIRETA1

12/24/2003 SZEWDIE1 00000016 09937185

01 FC:1253

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 DA# 180350 Name/Number: 09937185  
 FC: 9204



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# NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)  
NSG-202US

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Signature

Typed or printed name Tonya M. Berger

In re Application of

Shunsuke Ohtsuka et al.

Application Number

09/937,185

Filed

September 21, 2001

For

LIGHT-EMITTING THYRISTOR MATRIX ARRAY

Group Art Unit

2611

Examiner

Sara W. Crane

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the Examiner.

The fee for this Notice of Appeal is (37 CFR 1.17(b))

\$ 330.00

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:

\$ \_\_\_\_\_

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 18-0350. I have enclosed a duplicate copy of this sheet.

☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.

☐ attorney or agent acting under 37 CFR 1.34(a).  
Registration number if acting under 37 CFR 1.34(a), \_\_\_\_\_

Signature

Kenneth N. Noon, Reg. No. 31,549

Typed or printed name

(610)407-0700

Telephone Number

December 17, 2003

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ \*Total of \_\_\_\_\_ forms are submitted.

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330.00 DP

Adjustment date: 01/21/2005 SDIRETA1

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02 FC:1401

-330.00 DP

12/24/2003 SZEWDIE1 00000016 09937185

01 FC:1253

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